

# SEVENTY-SECOND DAY

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MONDAY, MAY 12, 1997

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## PROCEEDINGS

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Madla.

The President announced that a quorum of the Senate was present.

The Reverend Dr. Bill Skaar, Pastor, Central Baptist Church, Livingston, offered the invocation as follows:

Heavenly Father, thank You for the day and for allowing us to live in Texas. We count it a privilege and a responsibility to be Texans, and since what happens in the building affects our state and beyond, I pray You will bless Governor Bush, Lieutenant Governor Bullock, and the Members of this Senate along with their aides, with the grace to deliberate issues and make decisions which will be just for all. The eyes of Texans are upon these officials. May their eyes be upon You. In Jesus' name I pray. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Saturday, May 10, 1997, was dispensed with and the Journal was approved.

## LEAVE OF ABSENCE

On motion of Senator Lucio, Senator Madla was granted leave of absence for today on account of important business.

## HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

**HB 318** to Committee on Education.

**HB 540** to Committee on International Relations, Trade, and Technology.

**HB 697** to Committee on Jurisprudence.

**HB 770** to Committee on Natural Resources.

**HB 793** to Committee on Jurisprudence.  
**HB 819** to Committee on Criminal Justice.  
**HB 820** to Committee on Jurisprudence.  
**HB 942** to Committee on Health and Human Services.  
**HB 1117** to Committee on Economic Development.  
**HB 1144** to Committee on Natural Resources.  
**HB 1176** to Committee on State Affairs.  
**HB 1209** to Committee on Finance.  
**HB 1483** to Committee on State Affairs.  
**HB 1518** to Committee on Finance.  
**HB 1553** to Committee on Jurisprudence.  
**HB 1561** to Committee on Intergovernmental Relations.  
**HB 1610** to Committee on Intergovernmental Relations.  
**HB 1665** to Committee on Jurisprudence.  
**HB 1708** to Committee on Economic Development.  
**HB 1755** to Committee on Economic Development.  
**HB 1780** to Committee on State Affairs.  
**HB 1789** to Committee on Economic Development.  
**HB 1791** to Committee on State Affairs.  
**HB 1945** to Committee on Health and Human Services.  
**HB 2061** to Committee on Education.  
**HB 2129** to Committee on Economic Development.  
**HB 2257** to Committee on Criminal Justice.  
**HB 2629** to Committee on Criminal Justice.  
**HB 2776** to Committee on Natural Resources.  
**HB 2877** to Committee on State Affairs.  
**HB 3269** to Committee on Economic Development.  
**HB 3391** to Committee on Economic Development.  
**HB 3513** to Committee on Finance.

#### **CAPITOL PHYSICIAN**

Senator Armbrister was recognized and presented Dr. Dane D. Simons of Bay City as the "Doctor for the Day."

The Senate welcomed Dr. Simons and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

#### **MESSAGE FROM THE HOUSE**

**HOUSE CHAMBER**  
Austin, Texas  
Monday, May 12, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

- HB 66**, Relating to unfunded state mandates on political subdivisions.
- HB 130**, Relating to the authority of the commissioners court of a county to alter speed limits on county roads.
- HB 135**, Relating to designating peace officers to serve as notaries public.
- HB 172**, Relating to contract claims against a unit of state government.
- HB 841**, Relating to voting procedures for persons on a space flight.
- HB 932**, Relating to the manner in which salaries are paid to certain employees of the Texas School for the Deaf.
- HB 1048**, Relating to the civil and criminal consequences of a conviction for certain offenses involving a fictitious motor vehicle license plate, registration insignia, or safety inspection certificate.
- HB 1468**, Relating to the Ector County Independent School District model career-targeted transition program.
- HB 1700**, Relating to group health coverage for school district employees.
- HB 1909**, Relating to the methods used to extend the period of supported employment for recipients of Temporary Assistance for Needy Families.
- HB 2029**, Relating to retirement because of disability under the Employees Retirement System of Texas.
- HB 2063**, Relating to coverage under a group health benefit plan for diagnosis and treatment of certain conditions affecting the temporomandibular joint.
- HB 2069**, Relating to certain information provided in an application for a marriage license.
- HB 2096**, Relating to the selection of depositories by navigation districts and port authorities.
- HB 2283**, Relating to the creation of an offense prohibiting sexual activity between certain public servants and persons in custody.
- HB 2626**, Relating to the creation of a statewide preceptorship program in public health settings.
- HB 2784**, Relating to the filling of a vacancy in a nomination of a political party.
- HB 2798**, Relating to tax-exempt private activity bonds.
- HB 2897**, Relating to the punishment for the offense of burglary of a rail car.
- HB 3018**, Relating to the commissioning of peace officers by the commissioner of human services for purposes of fraud investigation and control.
- HB 3048**, Relating to the application of certain laws prohibiting employment discrimination.

**HB 3087**, Relating to the protection of defendants against vexatious litigants.

**HB 3100**, Relating to rights of the elderly.

**HB 3229**, Relating to the appointment of criminal law magistrates in Kaufman County.

**HB 3574**, Relating to the election and terms of office of directors of the Jefferson County Water Control and Improvement District No. 10.

**HB 3579**, Relating to the creation, administration, powers, and authority of the Chambers County-Cedar Bayou Navigation District.

**HB 3583**, Relating to zoning around Lake Somerville.

**HB 3590**, Relating to the creation, administration, powers, duties, operation, and financing of the San Patricio Groundwater Conservation District.

**HB 3594**, Relating to granting additional powers to the Westchase District, formerly known as the Westchase Area Management District.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

#### **BILLS SIGNED**

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

**SB 203, SB 297, SB 367, SB 788, SB 996, SB 1131, SB 1243, SB 1455, SB 1782, SB 1904**

(Senator Truan in Chair)

#### **SENATE RESOLUTION 688**

Senator Zaffirini offered the following resolution:

WHEREAS, The notable accomplishments of our young people are a source of pride for all Texans, and the Texas Senate is proud to recognize Claudia Y. Santos for her important contributions to her community; and

WHEREAS, A senior at Alexander High School in Laredo, Claudia was recently selected Youth of the Year for the 1996-1997 school year; she was chosen to receive the top honor from among Youth of the Month winners at Laredo high schools; and

WHEREAS, Throughout her high school years, Claudia has maintained a high scholastic average while participating in various activities; she has been a University Interscholastic League participant for three years and was vice president of her sophomore class; and

WHEREAS, An outstanding student who works hard to achieve her goals, Claudia is a member of the National Honor Society; she was a participant in Texas Alliance for Minorities in Engineering in her junior year and is a Courtesy Service Club member; and

WHEREAS, A compassionate and understanding person, Claudia finds personal satisfaction in volunteering her time to help those less fortunate; and

WHEREAS, Her dedication to excellence and her desire to achieve have brought honor to herself, her family, and her school; a highly motivated young woman, Claudia is an exemplary leader who is a model for students of all ages; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend Claudia Y. Santos for being selected as the 1996-1997 Youth of the Year; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Claudia as an expression of the high regard of the Texas Senate with best wishes for continued success in all her endeavors.

The resolution was again read.

The resolution was previously adopted on Thursday, May 8, 1997. The names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

#### **GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate Claudia Y. Santos of Laredo, accompanied by her parents Mr. and Mrs. Santos, her brother Rudy Santos, Alexander High School representative Counselor Grace Lopez, and sponsors from the United States Border Patrol: Chief Border Patrol Luis E. Barker; Assistant Chief Patrol Agent Oscar Garza; Border Agents Eric Grubin, Elizabeth Rosales, and Patrick Trevino; Public Affairs Specialist Mike Herrera; and sponsor from the International Bank of Commerce: Vice-president Cynthia Jackson.

The Senate welcomed its guests.

#### **SENATE BILL 802 WITH HOUSE AMENDMENTS**

Senator Zaffirini called **SB 802** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 802** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the collection of certain information related to health care and the functions and duties of the Texas Health Care Information Council; providing a penalty.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 108.002, Health and Safety Code, is amended to read as follows:

**Sec. 108.002. DEFINITIONS.** In this chapter:

- (1) "Board" means the Texas Board of Health.
- (2) "Charge" or "rate" means the amount billed by a provider for specific procedures or services provided to a patient before any adjustment

for contractual allowances. The term does not include copayment charges to enrollees in health benefit plans charged ~~[maintenance organization enrollees]~~ by providers paid by capitation or salary ~~[in a health maintenance organization]~~.

(3) "Council" means the Texas Health Care Information Council.

(4) "Data" means information collected under Section 108.009 in the form initially received.

(5) "Department" means the Texas Department of Health.

(6) "Health benefit plan" means a plan provided by:

(A) a health maintenance organization; or

(B) an approved nonprofit health corporation that is certified under Section 5.01(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and that holds a certificate of authority issued by the commissioner of insurance under Article 21.52F, Insurance Code.

(7) ~~(6)~~ "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under Chapter 464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic; or

(G) a federally qualified health center as defined by 42 U.S.C. Section 1396d(1)(2)(B).

(8) ~~(7)~~ "Health maintenance organization" means an organization as defined in Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

(9) ~~(8)~~ "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, chronic disease hospital, or other type of hospital.

(10) ~~(9)~~ "Outcome data" means measures related to the provision of care, including:

(A) patient demographic information;

(B) patient length of stay;

(C) mortality;

(D) co-morbidity;

(E) complications; and

(F) charges.

(11) ~~(10)~~ "Physician" means an individual licensed under the laws of this state to practice medicine under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(12) ~~(11)~~ "Provider" means a physician or health care facility; ~~or health maintenance organization~~.

(13) ~~(12)~~ "Provider quality" means the extent to which a provider renders care that, within the capabilities of modern medicine, obtains for patients medically acceptable health outcomes and prognoses, after severity adjustment.

(14) "Public use data" means patient level data relating to individual hospitalizations that has not been summarized or analyzed, that identifies patients and physicians only by use of uniform patient and physician identifiers, and that is severity and risk adjusted and verified for accuracy.

(15) ~~(13)~~ "Rural provider" means a provider described by Section 108.0025 ~~located in:~~

~~[(A) a county with a population of not more than 35,000;~~

~~[(B) those portions of extended cities that the United States Bureau of the Census has determined to be rural; or~~

~~[(C) an area that is not delineated as an urbanized area by the United States Bureau of the Census].~~

(16) ~~(14)~~ "Severity adjustment" means a method to stratify patient groups by degrees of illness and mortality.

(17) ~~(15)~~ "Uniform patient identifier" means a number assigned by the council to an individual patient and composed of numeric, alpha, or alphanumeric characters.

(18) ~~(16)~~ "Uniform physician identifier" means a number assigned by the council to an individual physician and composed of numeric, alpha, or alphanumeric characters.

SECTION 2. Chapter 108, Health and Safety Code, is amended by adding Section 108.0025 to read as follows:

Sec. 108.0025. RURAL PROVIDER. For purposes of this chapter, a provider is a rural provider if the provider:

(1) is located in a county that:

(A) has a population estimated by the United States Bureau of the Census to be not more than 35,000 as of July 1 of the most recent year for which county population estimates have been published; or

(B) has a population of more than 35,000, but that does not have more than 100 licensed hospital beds and is not located in an area that is delineated as an urbanized area by the United States Bureau of the Census; and

(2) is not a state-owned hospital or a hospital that is managed or directly or indirectly owned by an individual, association, partnership, corporation, or other legal entity that owns or manages one or more other hospitals.

SECTION 3. Sections 108.003(a), (b), (c), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) The council is composed of four ~~three nonvoting~~ ex officio state agency members and 15 members appointed by the governor in accordance with this section.

(b) The ~~nonvoting~~ ex officio members of the council are:

(1) the commissioner of public health or the commissioner's designee;

(2) the commissioner of health and human services or the commissioner's designee; [and]

(3) the commissioner of insurance or the commissioner's designee; and

~~(4) the public insurance counsel, or the counsel's designee.~~

(c) The governor shall appoint the following members of the council:

(1) three representatives of the business community, with at least one representing small businesses, who are purchasers of health care but who are not involved in the provision of health care or health insurance;

(2) two representatives from labor, one of whom is not directly involved with management of health care benefits;

(3) two representatives of consumers who are not professionally involved in the purchase, provision, administration, or review of health care or health care insurance;

(4) two representatives of hospitals;

(5) one representative of health maintenance organizations;

(6) three representatives of physicians who are involved in direct patient care; and

(7) two members who are not professionally involved in the purchase, provision, administration, or utilization review of health care or health care insurance and who have expertise in:

(A) health planning;

(B) health economics;

(C) provider quality assurance;

(D) information systems [~~statistics or health data management~~]; or

(E) the reimbursement of medical education and research costs.

(f) The council may appoint committees [~~subcommittees~~] and may elect any officers subordinate to those provided for in Subsection (d).

(g) The council shall appoint technical advisory committees and shall consult with the appropriate technical advisory committee with respect to a rule before the rule is finally adopted by the council. The council is not required to consult with a technical advisory committee before adopting an emergency rule in accordance with Section 2001.034, Government Code. The council shall submit an emergency rule adopted by the council to the appropriate advisory committee for review not later than the first advisory committee meeting that occurs after the rule is adopted. The council may consult with the appropriate technical advisory committee with respect to other formal action of the council. A technical advisory committee may consult with other professionals as necessary [~~The technical advisory committees shall work in coordination with each other and may consult with other professionals, as necessary~~]. The technical advisory committees shall include:

(1) a technical advisory committee that includes, among other individuals, at least five practicing physicians licensed in this state to provide advice and recommendations to the council on:

(A) the development and implementation of the methodology and the interpretation of provider quality data under Section 108.010; and

(B) the development and dissemination of consumer education information and materials;



(2) a technical advisory committee composed of at least five practicing physicians licensed in this state who have been actively engaged in organized peer review at a hospital in this state to provide advice, recommendations, and peer review expertise to the council on:

(A) the use of peer review in the determination of quality inpatient care;

(B) the development and interpretation of data elements necessary to the determination of quality inpatient care; and

(C) the development and format of reports and information relating to provider quality;

(3) a technical advisory committee composed of individuals who have expertise in the reimbursement of medical education and research costs; ~~and~~

(4) a technical advisory committee composed of representatives of each type of issuer of health benefit plans ~~[maintenance organizations]~~ to assist the council in complying with Section 108.009(o); ~~and~~

(5) a technical advisory committee composed of individuals who have expertise in hospital information systems, health information management, and quality management.

SECTION 4. Sections 108.004(a) and (c), Health and Safety Code, are amended to read as follows:

(a) The council, council ~~committees~~ subcommittees, and technical advisory committees are subject to the open meetings law, Chapter 551, Government Code.

(c) The council shall publish a notice of its meetings in the Texas Register ~~[at least four newspapers of general circulation in this state]~~.

SECTION 5. Chapter 108, Health and Safety Code, is amended by adding Section 108.0045 to read as follows:

Sec. 108.0045. OPEN RECORDS. Subject to the restrictions of this chapter, the council is subject to the open records law, Chapter 552, Government Code.

SECTION 6. Sections 108.006(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a) The council shall develop a statewide health care data collection system to collect health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. The council shall:

(1) direct the collection, dissemination, and analysis of data under this chapter;

(2) contract with the department to collect the data under this chapter;

(3) adopt policies and rules necessary to carry out this chapter, including rules concerning data collection requirements;

(4) build on and not duplicate other data collection required by state or federal law, by an accreditation organization, or by board rule;

(5) working with appropriate agencies, review public health data collection programs in this state and recommend, where appropriate, consolidation of the programs and any legislation necessary to effect the consolidation;

(6) assure that public use data [~~collected~~] is made available and accessible to interested persons;

(7) prescribe by rule the process [~~a format~~] for providers to submit data consistent with Section 108.009;

(8) adopt by rule and implement a methodology to collect and disseminate data reflecting provider quality in accordance with Section 108.010;

(9) make reports to the legislature, the governor, and the public on:

(A) the charges and rate of change in the charges for health care services in this state;

(B) the effectiveness of the council in carrying out the legislative intent of this chapter;

(C) if applicable, any recommendations on the need for further legislation; and

(D) the quality and effectiveness of health care and access to health care for all citizens of this state;

(10) develop an annual work plan and establish priorities to accomplish its duties;

(11) provide consumer education on the interpretation and understanding of the public use or provider quality data before the data is disseminated [~~information that is released~~] to the public;

(12) work with the Health and Human Services Commission and each health and human services agency that administers a part of the state Medicaid program to avoid duplication of expenditures of state funds for computer systems, staff, or services in the collection and analysis of data relating to the state Medicaid program; [~~and~~]

(13) work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards; and

(14) develop and implement a health care information plan to be used by the department to:

(A) support public health and preventative health initiatives;

(B) assist in the delivery of primary and preventive health care services;

(C) facilitate the establishment of appropriate benchmark data to measure performance improvements;

(D) establish and maintain a systematic approach to the collection, storage, and analysis of health care data for longitudinal, epidemiological, and policy impact studies; and

(E) develop and use system-based protocols to identify individuals and populations at risk.

(b) The council may:

(1) employ or contract with the department to employ an executive director and other staff, including administrative [~~and legal~~] personnel, necessary to comply with this chapter and rules adopted under this chapter;

(2) engage professional consultants as it considers necessary to the performance of its duties;

(3) adopt rules clarifying which health care facilities must provide data under this chapter; and

(4) apply for and receive any appropriation, donation, or other funds from the state or federal government or any other public or private source, subject to Section 108.015 and limitations and conditions provided by legislative appropriation.

(d) The council may not take an action that affects or relates to the validity, status, or terms of an ~~an [a-department]~~ interagency agreement or a contract ~~with the department~~ without the board's approval.

SECTION 7. Sections 108.008(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The department shall:

(1) contract with the council to collect data under this chapter;

(2) provide administrative ~~[and legal]~~ assistance to the council ~~[in accordance with rules adopted by the board after consulting with the council and set out in the contract with the council];~~

(3) coordinate administrative responsibilities with the council to avoid unnecessary duplication of the collection of data and other duties;

(4) ~~on request of the council,~~ give the council access to data collected by the department ~~[on request of the council];~~

(5) submit or assist in the council's budget request to the legislature; and

(6) work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards.

(c) The department may not take an action that affects or relates to the validity, status, or terms of an ~~an [a-council]~~ interagency agreement or a contract ~~with the council~~ without the council's approval.

SECTION 8. Chapter 108, Health and Safety Code, is amended by adding Sections 108.0081 and 108.0085 to read as follows:

Sec. 108.0081. MEMORANDUM OF UNDERSTANDING. The council and the department shall enter into a memorandum of understanding to implement the department's duties under Section 108.008(b). The memorandum of understanding must address:

(1) payroll and travel reimbursement services;

(2) purchasing services;

(3) personnel services;

(4) budget management services;

(5) computer support and maintenance services;

(6) meeting coordination services;

(7) any other administrative support or other services to be provided by the department for the council; and

(8) the manner in which the council will reimburse the department for the cost of services provided by the department for the council.

Sec. 108.0085. DUTIES OF ATTORNEY GENERAL. The attorney general shall furnish the council with advice and legal assistance that may be required to implement this chapter.

SECTION 9. Sections 108.009(b), (c), (d), (h), (k), and (o), Health and Safety Code, are amended to read as follows:

(b) The council shall adopt rules to implement the data submission requirements imposed by Subsection (a) in appropriate stages to allow for the development of efficient systems for the collection and submission of the data. A commission rule that requires submission of a data element that, before adoption of the rule, was not required to be submitted may not take effect before the 90th day after the date the rule is adopted.

(c) A rural provider may, but is not required to, provide the data required by this chapter ~~[section]~~. A hospital may, but is not required to, provide the data required by this chapter if the hospital:

(1) is exempt from state franchise, sales, ad valorem, or other state or local taxes; and

(2) does not seek or receive reimbursement for providing health care services to patients from any source, including:

(A) the patient or any person legally obligated to support the patient;

(B) a third-party payor; or

(C) Medicaid, Medicare, or any other federal, state, or local program for indigent health care.

(d) The council may not collect data from individual physicians or from an entity that is composed entirely of physicians and that is a professional association organized under the Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes), a limited liability partnership organized under Section 3.08, Texas Revised Partnership Act (Article 6132b-3.08, Vernon's Texas Civil Statutes), or a limited liability company organized under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes), except to the extent the entity owns and operates a health care facility in this state. This subsection does not prohibit the release of data about physicians using uniform physician identifiers that has been collected from a health care facility under this chapter.

(h) The council shall ~~[to the extent feasible]~~ coordinate data collection with the data submission ~~[collection]~~ formats used by hospitals and other providers. The council shall accept data in the format developed by the National Uniform Billing Committee (Uniform Hospital Billing Form UB 92) and HCFA-1500 or their successors or other universally accepted standardized forms that hospitals and other providers use for other complementary purposes ~~[approved by the council]~~.

(k) ~~The [In-developing the statewide health care data collection system, the] council shall~~ collect ~~[identify]~~ health care data elements relating to ~~[health care charges, provider quality;]~~ payer type, the racial and ethnic background of patients, ~~[the outcome data related to health care services;]~~ and the use of health care services by consumers.

(o) A provider of a health benefit plan ~~[maintenance organization]~~ shall annually submit to the council aggregate data by service area required by the Health Plan Employer Data Information Set (HEDIS) as operated by the National Committee for Quality Assurance. The council may approve the

submission of data in accordance with other methods generally used by the health ~~benefit plan~~ ~~[maintenance organization]~~ industry. This subsection does not relieve a health care facility that provides services ~~under~~ ~~[to]~~ a health ~~benefit plan~~ ~~[maintenance organization]~~ from the requirements of this chapter. Information submitted under this section is subject to Section 108.011 but is not subject to Section 108.010.

SECTION 10. Section 108.010, Health and Safety Code, is amended by amending Subsections (b), (c), (d), (e), (g), and (h) and adding Subsection (i) to read as follows:

(b) ~~The [After a majority of the council has been appointed, the] council shall study and analyze initial methodologies for obtaining provider quality data, including outcome data. [The council shall adopt an initial methodology not later than January 1, 1997, but may not adopt the initial methodology before the first anniversary of the date on which a majority of the council is appointed. If the council determines additional time for development of the initial methodology is needed, the council, by a two-thirds vote of the full council, may extend the deadline established by this subsection for adopting the initial methodology.]~~

(c) The council shall test the methodology by collecting provider quality data for one year, subject to Section 108.009. The council may test using pilot methodologies. After collecting provider quality data for one year, the council shall report findings applicable to a provider to that provider and allow the provider to review and comment on the initial provider quality ~~[outcome]~~ data applicable to that provider. The council shall verify the accuracy of the data during this review and revision process. After the review and revision process, provider quality ~~[outcome]~~ data for subsequent reports shall be published and made available to the public, on a time schedule the council considers appropriate.

(d) If the council determines that provider quality ~~[outcome]~~ data to be published under Subsection (c) does not provide the intended result or is inaccurate or inappropriate for dissemination, the council is not required to publish the data or reports based in whole or in part on the data. This subsection does not affect the release of public use data in accordance with ~~[collected under] Section 108.011 or the release of information submitted under Section 108.009(o) [108.009].~~

(e) The council shall adopt rules allowing a provider to submit concise written comments regarding any specific provider quality data to be released concerning the provider. The council shall make the comments available to the public at the office of the council and in an electronic form accessible through the Internet. The comments shall ~~[may]~~ be attached to any public release of provider quality data. Providers shall submit the comments to the council to be attached to the public release of provider quality data in the same format as the provider quality data that is to be released.

(g) In addition to the requirements of this section, any release of provider quality data shall comply with Sections 108.011(e) and (f) ~~[108.011(d)-(f)]~~.

(h) A provider quality ~~[outcome]~~ data report may not identify an individual physician by name, but must identify the physician by the uniform physician identifier designated by the council under Section 108.011(c).

(i) The council shall release provider quality data relating to providers described by Section 108.0025(1), but that are not rural providers because they do not meet the requirement of Section 108.0025(2), in an aggregate form without uniform patient and physician identifiers.

SECTION 11. Sections 108.011 and 108.012, Health and Safety Code, are amended to read as follows:

Sec. 108.011. ~~[DATA]~~ DISSEMINATION OF PUBLIC USE DATA AND COUNCIL PUBLICATIONS [PUBLICATION]. (a) The council shall promptly provide public use data and data collected in accordance with Section 108.009(o) to those requesting it. The public use data does not include provider quality [; subject to the restrictions on access to council] data prescribed by Section [Sections] 108.010 or confidential data prescribed by Section [and] 108.013.

(b) Subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013, and using the public use data [collected under Section 108.009] and other data, records, and matters of record available to it, the council shall prepare and issue reports to the governor, the legislature, and the public as provided by this section and Section 108.006(a). The council must issue the reports at least annually.

(c) Subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013, the council shall use public use data to prepare and issue reports that provide information relating to providers, such as the incidence rate of selected medical or surgical procedures [and the provider quality]. The reports must provide the data in a manner that identifies individual providers, including individual physicians, and that identifies and compares data elements for all providers. Individual physicians may not be identified by name, but shall be identified by uniform physician identifiers. The council by rule shall designate the characters to be used as uniform physician identifiers.

(d) The council shall adopt procedures to verify the accuracy of the public use data before releasing [a report containing] the public use data [is released] to the public.

(e) If public use [provider] data is requested from the council about [for] a specific provider, the council shall notify the provider about the release of the data. This subsection does not authorize the provider to interfere with the release of that data.

(f) A report issued by the council shall include a reasonable review and comment period for the affected providers before public release of the report.

(g) The council shall adopt rules allowing a provider to submit concise written comments regarding any specific public use data to be released concerning the provider. The council shall make the comments available to the public and the office of the council and in an electronic form accessible through the Internet. The comments shall be attached to any public release of the public use data. Providers shall submit the comments to the council to be attached to the public release of public use data in the same format as the public use data that is to be released.

(h) Tapes containing public use data and provider quality reports that are released to the public must include general consumer education material.

including an explanation of the benefits and limitations of the information provided in the public use data and provider quality reports.

(i) The council shall release public use data relating to providers described by Section 108.0025(1), but that are not rural providers because they do not meet the requirement of Section 108.0025(2), in an aggregate form without uniform patient and physician identifiers.

Sec. 108.012. COMPUTER ACCESS TO DATA. (a) The council shall provide a means for computer-to-computer access to the public use data. All reports shall maintain patient confidentiality as provided by Section 108.013.

(b) The council may charge a person requesting public use or provider quality data a fee for the data. The fees may reflect the quantity of information provided and the expense incurred by the council in collecting and providing the data and shall be set at a level that will raise revenue sufficient for the operation of the council. The council may not charge a fee for providing public use data to another state agency.

SECTION 12. Section 108.013, Health and Safety Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (g), (h), and (i) to read as follows:

(a) The data received by the council shall be used by the council for the benefit of the public. ~~[The council is subject to the open records law, Chapter 552, Government Code.]~~ Subject to specific limitations established by this chapter and council rule, the council shall make determinations on requests for information in favor of access.

(b) The council by rule shall designate the characters to be used ~~[by providers]~~ as uniform patient identifiers. The basis for assignment of the characters and the manner in which the characters are assigned are confidential.

(c) Data on patients and physicians and compilations~~[- reports, or analyses]~~ produced from the data collected that identify patients and physicians are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding.

(g) The council may not release data elements in a manner that will reveal the identity of a physician or patient.

(h) Subsection (c)(1) and Subsection (g) do not prohibit the release of a uniform physician identifier or a uniform patient identifier in conjunction with associated public use data in accordance with Section 108.011 or provider quality data in accordance with Section 108.010.

(i) Notwithstanding any other law, the council and the department may not provide information made confidential by this section to any other agency of this state.

SECTION 13. Chapter 108, Health and Safety Code, is amended by adding Section 108.0141 to read as follows:

Sec. 108.0141. CRIMINAL PENALTY. (a) A person who with criminal negligence releases data in violation of this chapter commits an offense.

(b) An offense under this section is a Class A misdemeanor.

SECTION 14. Sections 108.009(j), (l), and (n), Health and Safety Code, are repealed.

SECTION 15. Subchapter C, Chapter 311, Health and Safety Code, is amended by adding Section 311.039 to read as follows:

Sec. 311.039. EXEMPTION. A hospital may, but is not required to, provide the data required by Section 311.033 if the hospital:

(1) is exempt from state franchise, sales, ad valorem, or other state or local taxes; and

(2) does not seek or receive reimbursement for providing health care services to patients from any source, including:

(A) the patient or any person legally obligated to support the patient;

(B) a third party payor; or

(C) Medicaid, Medicare, or any other federal, state, or local program for indigent health care.

SECTION 16. The change in law made by this Act applies only to the collection and dissemination of data under Chapter 108, Health and Safety Code, on or after the effective date of this Act. The collection and dissemination of data before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 17. This Act takes effect September 1, 1997.

SECTION 18. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Floor Amendment No. 1

Amend CSSB 802 as follows:

(1) In SECTION 9 of the bill, in Section 108.009(b), Health and Safety Code (page 13, line 15, House committee printing), strike "commission rule" and substitute "rule adopted by the council".

(2) In SECTION 9 of the bill, in Section 108.009(o), Health and Safety Code, between the second and third sentences of the subsection (Page 15, line 12, House committee printing), insert the following: "If the Health Plan Employer Data Information Set (HEDIS) does not generally apply to a health benefit plan, the council shall require submission of data in accordance with other methods.".

The amendments were read.

On motion of Senator Zaffirini, the Senate concurred in the House amendments to SB 802 by a viva voce vote.

#### SENATE BILL 1301 WITH HOUSE AMENDMENTS

Senator Harris called SB 1301 from the President's table for consideration of the House amendments to the bill.



The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment**

Amend **SB 1301** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to parking, vehicle traffic, and security in the Capitol Complex.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 443, Government Code, is amended by adding Section 443.015 to read as follows:

Sec. 443.015. PARKING METERS. (a) The board may expend any available funds for the installation of parking meters in appropriate areas of the Capitol Complex for which parking and traffic control is under the jurisdiction of the Department of Public Safety. The board shall cooperate with the Department of Public Safety in the installation of the meters.

(b) The Department of Public Safety is responsible for operation and maintenance of parking meters installed under this section, and shall enforce parking violations related to metered spaces in accordance with Subchapter E, Chapter 411.

(c) The board and department may not install, operate, or maintain parking meters that accept only quarters.

(d) Fifty percent of the revenue collected from meters installed under this section shall be deposited in the Capitol fund, and 50 percent shall be deposited in the State Parking Fund No. 125 as provided by Section 411.063(d).

(e) For purposes of this section, the Capitol Complex includes the William P. Clements State Office Building.

SECTION 2. Chapter 443, Government Code, is amended by adding Section 443.0151 to read as follows:

Sec. 443.0151. VISITOR PARKING FACILITIES. (a) The board shall operate a garage or similar parking facility for the benefit of visitors to the Capitol Complex.

(b) The board may set and collect a fee for parking. Revenue from the parking facility shall be credited to the Capitol fund. If revenue bonds are issued for the project, the board shall transfer to the Texas Public Finance Authority the amount necessary for the debt service on not more than one-half of the total amount of bonds issued.

(c) The Department of Public Safety shall enforce the rules of the board governing parking in the facility in the same manner in which the department enforces the department's rules under Subchapter E, Chapter 411, including the issuance of administrative citations for violations of the board's rules. Except as provided by board rule, the parking rules of the Department of Public Safety adopted under that subchapter do not apply to parking in the facility.

SECTION 3. Section 411.061(a), Government Code, is amended to read as follows:

(a) In this subchapter, "Capitol Complex" means the following property that is[-

(1)] located in Austin, Texas, to the extent the property is owned by or under the control of the state:

(1) ~~(in)~~ the area bounded on the north by the inside curb of Martin Luther King, Jr., Boulevard, on the east by the outside curb of Trinity Street, on the south by the outside curb of 10th Street, and on the west by the outside curb of Lavaca Street;

(2) ~~[-and including]~~ the William P. Clements State Office Building located at 300 West 15th Street; ~~and~~

(3) ~~[-The term shall also apply to]~~ other locations under the jurisdiction of the capitol police district as may be approved by the director~~[-and~~

~~[(2) owned by or under the control of the state].~~

SECTION 4. Section 411.062, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The department and the City of Austin shall execute an interlocal cooperation agreement that defines the respective responsibilities of the department and the city for traffic and parking enforcement and general security in the Capitol Complex, including private property within the boundaries of the complex.

(g) The commission may authorize the director to impose within the Capitol Complex measures the director determines to be necessary to protect the safety and security of persons and property within the complex.

SECTION 5. Section 411.063, Government Code, is amended by amending Subsections (b) and (d) and adding Subsection (e) to read as follows:

(b) Rules adopted under this section may:

(1) regulate the type, flow, and direction of vehicular traffic;

(2) designate, mark, and assign areas and spaces for parking for elected state officials, chief executives and employees of state agencies located in the Capitol Complex, state-owned vehicles, business vehicles, and visitors to the Capitol Complex;

(3) establish a system of registration for vehicle identification;

(4) prohibit or restrict the use of areas and spaces for parking;

(5) establish a reasonable fee for parking in a parking space on a parking lot or in a parking garage that is located in the Capitol Complex, other than a space in the capitol driveway or capitol extension garage; and

(6) provide for the towing and storing, at the expense of the owner, of a vehicle parked in violation of a rule.

(d) Except as provided by Section 443.015, the [The] department shall remit to the comptroller for deposit to the credit of State Parking Fund No. 125 any fee collected for the parking of a vehicle in the Capitol Complex. Money in the fund may be appropriated only to the department for the operation, maintenance, and improvement of state parking facilities on, and for security in, the Capitol Complex.

(e) To the extent that the City of Austin on January 1, 1997, operated and maintained parking meters along either side of the streets forming the

perimeter of the Capitol Complex, the city is entitled to continue to operate, maintain, and receive the revenue from those meters, except that the city may not operate or maintain along those streets meters that accept only quarters.

SECTION 6. Subchapter E, Chapter 411, Government Code, is amended by adding Section 411.0645 to read as follows:

Sec. 411.0645. TRANSPORTATION PLANNING COMMITTEE.

(a) The department, City of Austin, the Capital Metropolitan Transit Authority, the General Services Commission, the State Preservation Board, and The University of Texas at Austin shall each designate a representative to a committee established for the purpose of coordination of transportation in and adjacent to the Capitol Complex. The representative of the department shall convene the initial meeting of the committee, and the committee shall elect officers and meet as decided by the committee.

(b) The committee may develop and recommend to the agencies represented agreements and memoranda of understanding relating to transportation in and adjacent to the Capitol Complex, including agreements or understandings relating to parking, vehicle traffic, and the location of light rail or other mass transit terminals and facilities in that area.

SECTION 7. Section 411.065(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person[:

~~[(1) drives or operates a motor vehicle at a speed greater than 15 miles per hour in the Capitol Complex; or~~

~~[(2)] violates a rule of the department adopted under Section 411.062 or 411.063.~~

SECTION 8. The Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes) is amended by adding Section 24B to read as follows:

Sec. 24B. CAPITOL COMPLEX PARKING FACILITIES. (a) The construction of parking facilities for state officers and employees and for visitors to the Capitol Complex, at an estimated cost of \$29.5 million, is approved for financing in accordance with Section 9 of this Act, and bonds may be issued to finance the construction in accordance with Section 10 of this Act.

(b) A parking facility for visitors to the Capitol Complex, projected to be built on current state parking Lot 17, shall be under the control of the State Preservation Board.

SECTION 9. Section 27, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Within the principal amount of the bond issue authorized under this Act for purposes of the project approved by this section, additional parking facilities, projected to be constructed on parking Lot 2E, are approved for financing.

SECTION 10. Notwithstanding Section 443.015, Government Code, as added by this Act, and Section 411.063(d), Government Code, as amended by this Act, all revenue collected from parking meters installed under Section 443.015 shall be deposited to the credit of the Capitol fund until the

amount so deposited equals the expenditures of the State Preservation Board in the installation of those meters. After that board is fully reimbursed for the cost of installation, the revenue from the meters shall be divided and deposited as provided by Section 443.015(c), Government Code, as added by this Act.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

#### Floor Amendment No. 1

Amend CSSB 1301 as follows:

In SECTION 1 of the bill, in amended Section 443.015, Government Code, add the following sentence at the end of Subsection (b) (page 1, line 16, House committee printing): "The board may reimburse the Department of Public Safety for the department's expenses in operating and maintaining the parking meters."

#### Floor Amendment No. 2

Amend CSSB 1301 as follows:

(1) In SECTION 1 of the bill, strike Subsection (d) of added Section 443.015, Government Code (House committee printing, page 1, lines 19-22), and substitute the following:

(d) The revenue collected from meters installed under this section shall be deposited in the Capitol fund.

(2) Strike SECTION 10 of the bill and renumber the remaining sections accordingly.

#### Floor Amendment No. 3

Amend CSSB 1301, in SECTION 8 of the bill, by striking Subsection (b) of added Section 24B, Texas Public Finance Authority Act (page 6, lines 5-7, House committee printing) and substituting the following:

(b) The parking facility for state officers and employees authorized under Subsection (a) is projected to be built on current state parking Lot 20. The parking facility for visitors to the Capitol Complex is projected to be built on current state parking Lot 17 and shall be under the control of the State Preservation Board.

The amendments were read.

Senator Harris moved to concur in the House amendments to SB 1301.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

#### SENATE BILL 911 WITH HOUSE AMENDMENT

Senator Cain called SB 911 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment No. 1**

Amend **SB 911** by striking SECTION 2 and renumbering subsequent sections accordingly.

The amendment was read.

On motion of Senator Cain, the Senate concurred in the House amendment to **SB 911** by a viva voce vote.

**SENATE BILL 1465 WITH HOUSE AMENDMENT**

Senator Brown called **SB 1465** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 1465** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the handling, testing, and compensation for the destruction of certain animals; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 161, Agriculture Code, is amended by adding Section 161.055 to read as follows:

Sec. 161.055. SLAUGHTER PLANT COLLECTION. (a) The commission may require slaughter plants to collect and submit blood samples and other diagnostic specimens for testing for disease.

(b) The commission by rule shall determine the method of collecting, submitting, and testing of blood samples and other diagnostic specimens.

(c) The owner or operator of a slaughter plant commits an offense if the slaughter plant fails to comply with this section or a rule adopted under this section. An offense under this subsection is a Class C misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.

SECTION 2. Section 162.008, Agriculture Code, is amended to read as follows:

Sec. 162.008. COMPENSATION OF OWNER. (a) The commission may pay an indemnity to the owner of cattle exposed to or infected with tuberculosis if the commission considers it necessary to eradicate the disease.

(b) The commission may adopt rules for the implementation of this section, including rules for determining eligibility for compensation. [If cattle are sold and slaughtered under Section 162.007(b) of this code, the commission may pay to the owner an amount equal to not more than one-third of the appraised value of the animal after deducting any amount received for salvage.]

~~[(b) Compensation under this section may not exceed \$35 for a grade animal or \$70 for a purebred animal and may not exceed any compensation made for the same purpose by the United States Department of Agriculture.~~

~~[(c) In order to be eligible for compensation under this section, an owner must comply with the rules of the commission.~~

~~[(d) For purposes of this section, the appraised value of an animal shall be determined by a representative of the commission or the United States Department of Agriculture and a representative of the owner of the animal. If they cannot agree on the value, they shall appoint a third appraiser and the value of the animal shall be determined by agreement of any two of the three appraisers.~~

~~[(e) The commission may compensate persons under this section only from funds appropriated for that purpose in the General Appropriations Act.]~~

SECTION 3. This Act takes effect September 1, 1997.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brown, the Senate concurred in the House amendment to **SB 1465** by a viva voce vote.

#### **SENATE BILL 1706 WITH HOUSE AMENDMENT**

Senator Ratliff called **SB 1706** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 1706** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the funding of passenger rail service by the Texas Department of Transportation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 456.002(b), Transportation Code, is amended to read as follows:

(b) Each public transportation program provided by this chapter, except the passenger rail service assistance program under Subchapter D, is a matching grant program for public transportation projects. Approval by the United States of a proposed public transportation project means that the project is consistent with the purposes of this chapter and with the continuing, cooperative, and comprehensive regional transportation planning implemented in accordance with the Federal Transit Act and the Federal-Aid Highway Act.

SECTION 2. Chapter 456, Transportation Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D.PASSENGER RAIL SERVICE ASSISTANCE PROGRAM

Sec. 456.061. DEFINITION. In this subchapter, "eligible corporation" means a corporation created under former Subchapter III, Chapter 14, Title 45, United States Code (now 49 U.S.C. Sections 24101 et seq. and 24301 et seq.).

Sec. 456.062. LOANS TO CORPORATION. (a) Under the authority of Section 52-a, Article III, Texas Constitution, and from funds appropriated from the general revenue fund for this purpose, the commission may loan money to an eligible corporation that provides rail passenger service in the state.

(b) Notwithstanding any other statutory restriction, the portion of the state highway fund not dedicated by the constitution is collateral for repayment of a loan made under this section. The comptroller may transfer from that portion of the state highway fund to the general revenue fund the amount needed to repay any unpaid balance on the loan, including applicable interest, in accordance with the loan agreement.

Sec. 456.063. AGREEMENT. The department, on behalf of the commission and with the approval of the comptroller, shall enter into an agreement, under terms and conditions the department considers appropriate, with an eligible corporation for the purposes of making a secured loan under this subchapter. The agreement must provide for collateralization and guaranties in a form and amount determined by the comptroller and the commission to be sufficient to repay to the state highway fund any money transferred to the general revenue fund under Section 456.062(b).

Sec. 456.064. LIMITATION OF FUNDING. The commission may only expend funds specifically appropriated by the legislature for the purposes of this subchapter.

Sec. 456.065. GUARANTEE FROM MUNICIPALITIES. The department, on behalf of the commission and with the approval of the comptroller, shall secure an agreement or agreements with the municipalities served by an eligible corporation that receives assistance under this subchapter to further guarantee the repayment of half of any unpaid balance on a loan, including interest, made under this subchapter.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Ratliff moved to concur in the House amendment to SB 1706.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1300 ADOPTED**

Senator Ogden called from the President's table the Conference Committee Report on **HB 1300**. The Conference Committee Report was filed with the Senate on Friday, May 9, 1997.

On motion of Senator Ogden, the Conference Committee Report was adopted by a viva voce vote.

**SENATE BILL 992 WITH HOUSE AMENDMENT**

Senator Nixon called **SB 992** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Committee Amendment No. 1**

Amend **SB 992** as follows:

On page 13, line 12 after "price," and before "The Board" insert the following language:

"The Board may enter into construction contracts for the District. Article 5160, Revised Statutes, as it relates to performance and payment bonds, applies to construction contracts let by the District."

The amendment was read.

On motion of Senator Nixon, the Senate concurred in the House amendment to **SB 992** by a viva voce vote.

**(President in Chair)**

**SENATE BILL 386 WITH HOUSE AMENDMENTS**

Senator Sibley again called **SB 386** with House amendments from the President's table. The bill and the House amendments were laid before the Senate and read on Saturday, May 10, 1997.

Question—Shall the Senate concur in the House amendments to **SB 386**?

**(Senator Brown in Chair)**

Senator Sibley again moved to concur in the House amendments to **SB 386**.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Ellis, Gallegos, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Fraser, Galloway, Ogden, Patterson.

Absent-excused: Madla.



**SENATE BILL 25 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 25**, Relating to certain previously waived service credit in the Employees Retirement System of Texas.

The bill was read second time and was passed to engrossment by a viva voce vote.

**SENATE BILL 25 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 25** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**SB 25** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 918 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 918**, Relating to funding the costs of apprehending certain inmates for whom warrants are issued by the Board of Pardons and Paroles or the pardons and paroles division of the Texas Department of Criminal Justice.

The bill was read second time.

Senator Patterson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 918** as follows:

(1) Strike Sections 1 and 2 and substitute a new Section 1 to read as follows:

SECTION 1. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.019 to read as follows:

Art. 102.019. FELONY COSTS FOR FUGITIVE APPREHENSION.

(a) A person shall pay \$5 as a court cost on conviction of a felony.

(b) The court shall assess and make a reasonable effort to collect the cost due under this article whether any other court cost is assessed or collected.

(c) For purposes of this article, a person is considered to have been convicted if:

(1) a sentence is imposed; or

(2) the defendant receives community supervision or deferred adjudication.

(d) Court costs under this article are collected in the same manner as other fines or costs. The officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county treasury.

(e) The custodian of a county treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county may retain 10 percent of the funds collected under this article as a collection fee if the custodian of the treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county treasury in a calendar quarter, the custodian shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the fugitive apprehension account in the general revenue fund.

(i) Funds collected under this article are subject to audit by the comptroller.

(2) Strike Section 5 of the bill and substitute an appropriately numbered section to read as follows:

SECTION \_\_\_\_ . The court cost authorized by Article 102.019, Code of Criminal Procedure, as added by this Act, applies only to a conviction for an offense that is committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(3) Renumber the sections of the bill accordingly.

The amendment was read and was adopted by a viva voce vote.

CSSB 918 as amended was passed to engrossment by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 918 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 918 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

CSSB 918 was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1918 ON SECOND READING**

On motion of Senator Luna and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1918**, Relating to the operation and administration of the Texas School for the Deaf.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1918 ON THIRD READING**

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1918** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**CSSB 1918** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1919 ON SECOND READING**

On motion of Senator Luna and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1919**, Relating to the operation and administration of the Texas School for the Blind and Visually Impaired.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1919 ON THIRD READING**

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1919** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**CSSB 1919** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1545 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1545**, Relating to the payment for proceeds derived from the sale of oil or condensate from an oil or gas well located in this state.

The bill was read second time and was passed to engrossment by a viva voce vote.

**RECORD OF VOTES**

Senator Brown asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

Senators Bivins and Moncrief asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1545 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1545** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 2.

Yeas: Armbrister, Barrientos, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Brown.

Present-not voting: Bivins, Moncrief.

Absent-excused: Madla.

**CSSB 1545** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senator Brown asked to be recorded as voting "Nay" on the final passage of the bill.

Senators Bivins, Ellis, Moncrief, and Truan asked to be recorded as "Present-not voting" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2510 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2510**, Relating to the regulation of certain personal care facilities.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 2510** as follows:

- 1) Strike subsection (b).
- 2) Strike subsection (c).
- 3) Amend subsection (d) to read as follows:

(d) The board shall adopt minimum standards for a personal care facility classified under this section.

The amendment was read and was adopted by a viva voce vote.

**CSHB 2510** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2510 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2510** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**CSHB 2510** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1487 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1487**, Relating to the regulation of certain transportation service providers; providing penalties.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1487** as follows:

(1) On page 2, line 15, before "customs", insert "licensed".

(2) On page 2, between lines 19 and 20, insert the following:

"(d) This Act does not apply to an ocean freight forwarder as defined by 46 U.S.C. Section 1702.

The committee amendment was read and was adopted by a viva voce vote.

**HB 1487** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1487 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1487** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 1487** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1367 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1367**, Relating to reporting by the Texas Natural Resource Conservation Commission and the attorney general on environmental enforcement actions.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1367 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1367** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 1367** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1242 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1242**, Relating to participation in, benefits under, and administration of retirement systems for police officers in certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1242 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1242** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 1242** was read third time and was passed by a viva voce vote.

**HOUSE BILL 463 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 463**, Relating to the hotel occupancy tax revenue of certain counties that border the Gulf of Mexico.

The bill was read second time.

Senator Galloway offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 463** as follows:

(1) Amend Section 352.1033(a)(5), Tax Code (page 1, lines 25-27), to read as follows:

(5) create, renovate, promote, and maintain parks adjacent to bays, rivers, and other navigable waterways if the county does not operate a public beach on the Gulf of Mexico; and

(2) Strike Subsection (c), Section 352.1033, Tax Code (page 1, lines 37-41).

The amendment was read and was adopted by a viva voce vote.

**HB 463** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 463 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 463** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 463** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 239 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 239**, Relating to certain benefits provided under the Texas Public School Employees Group Insurance Program.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 239 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 239** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 239** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2847 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2847**, Relating to the line of vegetation in an area of public beach near certain seawalls.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2847 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2847** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 2847** was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

#### **COMMITTEE SUBSTITUTE SENATE BILL 1155 ON SECOND READING**

Senator Harris moved to suspend the regular order of business to take up for consideration at this time:

**CSSB 1155**, Relating to certain business practices in and licenses for the writing of title insurance.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Armbrister, Bivins, Cain, Carona, Duncan, Ellis, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Zaffirini.

Nays: Barrientos, Brown, Fraser, Gallegos, Patterson, Wentworth, West, Whitmire.

Absent-excused: Madla.

**CSSB 1155** was read second time.

Senator Harris offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSSB 1155** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article 9.37, Insurance Code, is amended by adding Section F to read as follows:

F. After notice and hearing, the commissioner may revoke or suspend a license issued under this chapter if the commissioner finds the existence of any material fact or condition that either did not exist or was not disclosed at the time of the original application for the license but was required to be disclosed at that time and that, had such fact or condition existed or been disclosed at that time, clearly would have warranted refusal to issue the license.



SECTION 2. Chapter 9, Insurance Code, is amended by adding Article 9.36B to read as follows:

Art. 9.36B. ADDITIONAL LICENSING REQUIREMENTS. (a) A person, firm, entity, association, or corporation licensed or applying for a license as a title insurance agent or direct operation in a county in this state shall provide evidence to the department that:

(1) the title insurance agent or direct operation owns or leases, in accordance with this chapter, an abstract plant or plants for the county or counties in this state for which the title insurance agent or direct operation is licensed and from which the furnished title evidence must be utilized for title examination by the independent, bona fide employees of such title insurance agent or direct operation in connection with any transaction in such county or counties for which such title insurance agent or direct operation receives a portion of the title premium;

(2) the title insurance agent or direct operation is actually involved in closing the transaction, as defined by the procedural rules, and that such services are performed by (i) independent, bona fide employees or officers of the title insurance agent or direct operation who are licensed escrow officers of the title insurance agent or direct operation; or (ii) in a county with a population in excess of 500,000 or adjacent county thereto with a population in excess of 100,000, another licensed title insurance agent or direct operation pursuant to a written agreement; provided, however, that the fee paid for such services shall be no less than 40 percent of the total retained title premium;

(3) the title insurance agent or direct operation will not close or settle real estate transactions for real property located in a county in this state other than a county for which the title insurance agent or direct operation is licensed, unless the title insurance agent or direct operation pays a fee for the furnishing of title evidence and title examination to the licensed title insurance agents or direct operations from which such other counties' title evidence and title examination is derived of not less than:

(A) 24.5 percent of the total retained premium collected in the settlement for the services, if the county for which the title evidence and title examination is performed has a population of 100,000 or more; and

(B) 36.5 percent of the total retained premium collected in the settlement for the services if the county for which the title evidence and title examination is performed has a population of less than 100,000;

(4) except as provided in Subdivision (5) of this subsection, the title insurance agent or direct operation will not engage in the title examination of furnished title evidence for a fee with respect to a county other than a county in which the title insurance agent's or direct operation's abstract plant is licensed; and

(5) in a county with a population in excess of 500,000 or county adjacent thereto with a population in excess of 100,000, a title insurance agent or direct operation may engage in the title examination of furnished title evidence for a fee with respect to a county other than the county in which the title insurance agent's or direct operation's abstract plant is licensed only so long as the fee paid for such service is no more than 20 percent of the total retained premium collected in the settlement.

(b) This article does not apply to services provided by an attorney in connection with a title examination or closing a transaction if the services are provided in accordance with this chapter and department rules.

(c) A material agreement, as defined by the commissioner, between title insurance companies, between title insurance agents, between direct operations, or between any of these persons, must, for informational purposes, be provided to the commissioner by all parties to the agreement. A subsequent material agreement, as defined by the commissioner, between such parties must, for informational purposes, be provided to the commissioner at the time the agreement is executed.

(d) This article does not impair any insurance activity expressly authorized by federal law.

(e) Subject to the provisions of this Act, no person, firm, entity, association, or corporation shall be denied a license pursuant to the provisions of this Act as a title insurance agent or direct operation because all or any portion of the title premium is received from the owner or affiliates of the title insurance agent or direct operation.

(f) The commissioner, in accordance with the provisions of this Act, may promulgate rules with respect to the enforcement and interpretation of this article, the materiality of agreements, and all information to be provided with respect thereto.

(g) The only services for which title premiums may be divided among licensed title agents, direct operations, and their title companies under this Act are for (i) closing the transaction; (ii) the furnishing of title evidence from a licensed title plant as described in this article; (iii) the title examination of such title evidence; or (iv) for the purposes of the division of premium described in Section B(1) of Article 9.30 of this Act.

SECTION 3. This Act takes effect September 1, 1997, and applies to new applicants who apply for licensing under Chapter 9, Insurance Code, as amended by this Act, on or after that date. Beginning September 1, 1998, this Act applies to title insurance agents and direct operations licensed before the effective date of this Act.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to CSSB 1155 as follows:

(1) On page 4, add a new subsection (h) as follows:

"(h)(1) In addition to any other licensing requirements under Chapter 9, no license or renewal of license shall be granted to any person, firm, association or corporation as a title agent or direct operation unless it is found

by the Commissioner of Insurance that such person, firm, association, or corporation is, or intends to be, actively engaged in the business of title insurance.

(2) Notwithstanding any other law to the contrary, the commissioner shall adopt rules to implement this article."

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

**CSSB 1155** as amended was passed to engrossment by a viva voce vote.

#### RECORD OF VOTES

Senators Barrientos, Brown, Cain, Fraser, Gallegos, Patterson, Shapleigh, Wentworth, West, and Whitmire asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### MOTION TO PLACE COMMITTEE SUBSTITUTE .SENATE BILL 1155 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1155** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 7. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Bivins, Cain, Carona, Duncan, Ellis, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Sibley, Truan, Whitmire, Zaffirini.

Nays: Barrientos, Brown, Gallegos, Patterson, Shapleigh, Wentworth, West.

Absent: Fraser.

Absent-excused: Madla.

#### MESSAGE FROM THE HOUSE

HOUSE CHAMBER  
Austin, Texas  
Monday, May 12, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 247**, Honoring Dr. Edwin E. Lehr on the occasion of his retirement as president of San Jacinto College's North campus.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

#### **BILLS AND RESOLUTION SIGNED**

The Presiding Officer, Senator Truan in Chair, announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

**HB 324, HB 627, HB 1773, HB 1782, HB 1989, HB 2311, HB 3134, HB 3356, HB 3459, HCR 109**

(Senator Luna in Chair)

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1880 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1880**, Relating to the authority of the attorney general to enter into agreements with other jurisdictions for the establishment of child support and child custody orders.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1880 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1880** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**CSHB 1880** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
Monday, May 12, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

## THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 244**, Commending Ramsay H. Gillman for his achievements in the automotive industry.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2126 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2126**, Relating to requiring the Department of Human Services to conduct evaluations to improve its programs.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2126 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2126** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**CSHB 2126** was read third time and was passed by a viva voce vote.

**SENATE BILL 1894 ON THIRD READING**

The Presiding Officer laid before the Senate **SB 1894** on its final passage. The bill was read third time on Wednesday, April 30, 1997, and further consideration was postponed.

**SB 1894**, Relating to the authority of the Commissioner of Insurance to adopt rules for general application.

Question—Shall **SB 1894** be finally passed?

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 1894** in SECTION 1 of the bill (page 1, line 31, committee printing) by striking "A rule adopted by the commissioner that does not comply with the requirements of this article is void."

The amendment was read and was adopted by unanimous consent.

The bill as amended was finally passed by a viva voce vote.

(Senator Ratliff in Chair)

**HOUSE BILL 2812 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2812**, Relating to the inclusion of performance pay for purposes of contributions and benefits under the Teacher Retirement System of Texas.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2812 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2812** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 2812** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1826 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1826**, Relating to the Department of Protective and Regulatory Services, the protection of children from abuse and neglect, and the conservatorship of children.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1826** as follows:

(1) On page 4, line 14, insert the following new section and renumber the subsequent sections appropriately:

**SECTION 6.** Section 105.001, Family Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. Except as provided by Subsection (h), an [Am] order may not be rendered under Subsection (a)(1), (2), or (5) except after notice and a hearing. A temporary restraining order granted under this section need not:

(1) define the injury or state why it is irreparable; or

(2) state why the order was granted without notice.

(h) An order under Subsection (a)(1) may be rendered without notice and an adversary hearing if the order is an emergency order sought by a governmental entity under Chapter 262.

(2) On page 6, lines 19-21, strike current language and substitute the following:

"(F) failed to support the child in accordance with the parent's [his] ability during a period of one year ending within six months of the date of the filing of the petition;"

(3) On page 9, strike lines 11-18 and substitute the following:

"(P) used a controlled substance, as defined by Chapter 481, Health and Safety Code:

(i) in a manner that endangered the health or safety of the child, and failed to complete a court-ordered substance abuse treatment program; or

(ii) repeatedly, after completion of a court-ordered substance treatment program, in a manner that endangered the health or safety of the child.

(4) On page 14, line 26, strike Subsection (e) and substitute the following new Subsection (e) to read as follows:

(e) An interview with a child, alleged to be a victim of physical abuse or sexual abuse shall be audiotaped or videotaped unless the investigating agency determines that good cause exists for not audiotaping or videotaping the interview in accordance with rules of the agency. Good cause may include, but is not limited to, such considerations as the age of the child and the nature and seriousness of the allegations under investigation. Nothing in this subsection shall be construed as prohibiting the investigating agency from audiotaping or videotaping an interview of a child on any case for which such audiotaping or videotaping is not required under this subsection.

(5) On page 20, line 26, strike Subsection (e) and substitute the following new Subsection (e) to read as follows:

(e) When citation by publication is needed for a parent or alleged or probable father in an action brought under this chapter because the location of the parent, alleged father or probable father is unknown, the court may render a temporary order without delay at any time after the filing of the action without regard to whether notice of the citation by publication has been published.

(6) On page 24, lines 15-16, strike "[initiated a suit and has] and substitute "initiated a suit and has".

The committee amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following committee amendment to the bill:

#### **Committee Amendment No. 2**

Amend **HB 1826** as follows:

(1) On page 3, lines 1-25, strike Section 4.

(2) On page 17, lines 20-27 and page 18, lines 1-8, strike Section 19

(3) On page 21, lines 3-27 and page 22, lines 1-7, strike Section 23

The committee amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **HB 1826** as follows:

SECTION 2. Section 261.107, Family Code, is amended to read as follows:

Sec. 261.107. FALSE REPORT; PENALTY. (a) A person commits an offense if the person knowingly or intentionally makes a report as provided in this chapter that the person knows is false or lacks factual foundation. ~~An offense under this section is a Class A misdemeanor. The first offense under this section is a Class A misdemeanor; a subsequent offense under this section is a state jail felony.~~

(b) A report under this section, which was made prior to or during a suit affecting the parent-child relationship and in which is contained accusations that the court determines the accuser knew to be false or lacking factual foundation, may be grounds for the court to modify the parent-child relationship to restrict further access to the child by the accuser.

(c) The respective prosecuting attorney shall be responsible for the prosecution of offenses under this section.

The committee amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1826** by adding a new SECTION 37 and renumber the subsequent sections appropriately.

SECTION 37. Section 40.003, Human Resources Code, is amended to read as follows:

Sec. 40.003. SUNSET PROVISION. The Department of Protective and Regulatory Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 1999 ~~[1997]~~.

Amend **HB 1826** by adding a new SECTION 41 and renumber the subsequent sections appropriately.

SECTION 41. The change in law made by this Act to Section 40.003, Human Resources Code, takes effect only if **SB 359**, Acts of the 75th Legislature Regular Session, 1997, does not become law. If that bill does not become law the change made by this Act to Section 40.003, Human Resources Code, takes effect September 1, 1997.

The amendment was read and was adopted by a viva voce vote.

**HB 1826** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1826 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1826** be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**HB 1826** was read third time and was passed by a viva voce vote.

#### **SENATE BILL 1389 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 1389**, Relating to the applicability of the Private Real Property Rights Preservation Act to certain political subdivisions.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **SB 1389** by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Subsection (5), Section 2007.001, Government Code, is amended to read as follows:

(5) "Taking" means:

(A) a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or

(B) a governmental action that:

(i) affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, but does not include private real property that is not the subject of the governmental action and that is merely nearby or adjacent to private real property that is the subject of the governmental action; and

(ii) is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The amendment was read and was adopted by a viva voce vote.

**SB 1389** as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 1389 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1389** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Madla.

**SB 1389** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2945 ON SECOND READING**

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 2945**, Relating to protection of agricultural improvements.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **HB 2945** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 4, Present-not voting 1.

Yeas: Armbrister, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Moncrief, Shapleigh, Truan.

Present-not voting: Bivins.

Absent-excused: Madla.

**HB 2945** was read second time and was passed to third reading by the following vote: Yeas 25, Nays 4, Present-not voting 1. (Same as previous roll call)

#### **HOUSE BILL 2945 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2945** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 4, Present-not voting 1.

Yeas: Armbrister, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Moncrief, Shapleigh, Truan.

Present-not voting: Bivins.

Absent-excused: Madla.

**HB 2945** was read third time and was passed by the following vote: Yeas 25, Nays 4, Present-not voting 1. (Same as previous roll call)

**GUEST PRESENTED**

Senator Ellis was recognized and introduced to the Senate Lottery Commissioner John L. Hill, former Chief Justice of the Supreme Court of Texas.

The Senate welcomed Commissioner Hill.

**HOUSE BILL 1091 RECOMMITTED**

On motion of Senator Zaffirini and by unanimous consent, **HB 1091** was recommitted to the Committee on Jurisprudence.

**SENATE RULE 11.19 SUSPENDED**  
(Posting Rule)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider the following bills today: **HB 1091, SB 165**

**SENATE RULE 11.19 SUSPENDED**  
(Posting Rule)

On motion of Senator Harris and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might consider the following resolution and bill tomorrow:

**SCR 85, HB 2841**

**SENATE RULE 11.19 SUSPENDED**  
(Posting Rule)

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider **SB 1952** today.

**PERMISSION TO INTRODUCE BILL**

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bill: **SB 1954**

**SENATE BILL ON FIRST READING**

The following bill was introduced, read first time, and referred to the committee indicated:

**SB 1954** by Brown

Relating to the regulation of used oil filters.

To Committee on Natural Resources.

**COMMITTEE OF THE WHOLE SENATE**

On motion of Senator Barrientos and by unanimous consent, the Senate at 1:50 p.m. resolved into the Committee of the Whole Senate on Legislative and Congressional Redistricting with Senator Barrientos presiding.

**IN LEGISLATIVE SESSION**

Senator Truan called the Senate to order at 2:35 p.m. as In Legislative Session.

**COMMITTEE OF THE WHOLE SENATE REPORT**

Senator Barrientos was recognized and reported that the Committee of the Whole Senate on Legislative and Congressional Redistricting had met and had conducted its business.

**CONGRATULATORY RESOLUTIONS**

**SCR 88** - by Ratliff: Commending Sabrina McAfee of Marshall.

**SCR 89** - by Cain: Commending the Creagleville Historical Marker Association.

**SR 707** - by West: Congratulating the Reverend Phillip White and Elizabeth White of Dallas.

**SR 709** - by Barrientos: Congratulating Gordon C. Thomas of Austin.

**SR 710** - by Barrientos: Congratulating the Park Crest Middle School beginner band in Pflugerville.

**SR 711** - by Barrientos: Congratulating Donovan H. Williams of Austin.

**SR 712** - by Cain: Commending the members of the Mill Creek Homeowners Association in Dallas.

**SR 713** - by Cain: Congratulating Albert W. Vaughan of Greenville.

**HCR 247** - (Whitmire): Honoring Dr. Edwin E. Lehr of San Jacinto College.

**MISCELLANEOUS RESOLUTION**

**SR 708** - by West: Declaring May 11 through May 17, 1997, National Black Child Development Week.

**ADJOURNMENT**

On motion of Senator Armbrister, the Senate at 2:40 p.m. adjourned, in memory of Jabe Brazzle, Jr., of Vernon and John Saucedo of San Antonio, until 9:00 a.m. tomorrow.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

May 12, 1997

NATURAL RESOURCES — **SB 1947** (Amended), **CSHB 2542**

JURISPRUDENCE — **HB 2007**, **HB 1091**, **HB 3559**

FINANCE — **CSHB 107**, **HB 1112** (Amended), **HB 2214** (Amended)

INTERGOVERNMENTAL RELATIONS — **CSSB 679**

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JURISPRUDENCE — **HB 984** (Amended)

ECONOMIC DEVELOPMENT — **HB 2105, HB 3354, HB 976**  
(Amended), **CSHB 909**

STATE AFFAIRS — **CSHB 1200**

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**SENT TO GOVERNOR**

May 12, 1997

**SB 63, SB 126, SB 191, SB 372, SB 452, SB 515, SB 526, SB 611, SB 614,  
SB 652, SB 754, SB 887, SB 908, SB 927, SB 952, SB 1012, SB 1044,  
SB 1113, SB 1125, SB 1174, SB 1826, SCR 36**

**In Memory****of****Jabe Brazzle, Jr.**

Senator Duncan offered the following resolution:

**(Senate Resolution 652)**

WHEREAS, The passing of Jabe Brazzle, Jr., on February 24, 1997, at the age of 67, has brought a great loss to the family and many friends of the distinguished Texan; and

WHEREAS, Born July 26, 1929, in Cleburne, Mr. Brazzle was graduated from Texas College; he married the former Jesse Bibles on September 10, 1952, and the couple nurtured a happy and fulfilling union that spanned 44 years; they were blessed with two children, Jabe III and Gina Rachele; and

WHEREAS, Mr. Brazzle was well regarded as an educator and coach who pioneered integration in the Vernon school system; a former classroom teacher, he began his coaching career at Booker T. Washington High School in 1954, and throughout the years, he served as a positive role model to countless young Texans; and

WHEREAS, A former minor league baseball player, he shared his knowledge and enthusiasm for that sport with his students when he developed the baseball program at Vernon High School in 1975, and he inspired many young athletes to victory as head coach of the varsity team until he retired in 1990; in recognition of his vast contributions, the school's new baseball field will be named in his honor; and

WHEREAS, This eminent Texan further served his community as a director of the Vernon Housing Authority and the Boys Clubs of Vernon and as an esteemed member of the Vernon Optimist Club and the Masonic Lodge; his exceptional civic involvement brought him well-deserved acclaim, for he was named the community's Outstanding Citizen for 1988; and

WHEREAS, In all his endeavors, he was sustained by a deep faith as a devout member of First Baptist Church, where he was active in the Seekers Sunday School class and the Celebration Choir; and

WHEREAS, A man of great vision, Jabe Brazzle, Jr., left an indelible mark on the community he was proud to call home, and though he is gone from us now, his memory will surely endure in the hearts and minds of all who know and loved him; now, therefore, be it

**RESOLVED**, That the Senate of the 75th Texas Legislature hereby pay tribute to the life of Jabe Brazzle, Jr., and extend sincere sympathy to the members of his family: to his beloved wife, Jesse Brazzle; to his daughter, Gina Brazzle Townsend; to his four sisters, Mary Bess Marshburn, Hazel King, Geneva Brazzle, and Louise

Davis; to his grandson, Evan Isaiah Townsend; and to the many other friends and relatives of this distinguished gentleman; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the members of his family and when the Texas Senate adjourns this day, do so in memory of Jabe Brazzle, Jr.

The resolution was read.

On motion of Senator Haywood and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Duncan and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

Senator Duncan, joined by Senator Haywood, was recognized and introduced to the Senate Jesse Brazzle, widow of Jabe Brazzle, Jr.; his daughter Gina Brazzle Townsend and her husband and son John Townsend III and Evan Isaiah Townsend; and John and Ruby Townsend.

The Senate welcomed its guests and extended its sympathy.

